IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 778/2006
(Simple V/s Gaurav Rohila & Anr.)

Date of Order : 02/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Rajendra Choudhary, for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
None present for the respondent No.1

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner-first informant has challenged the order dated 21.1.2006 passed by Judicial Magistrate No.2, Jodhpur (for short 'the trial court' hereinafter) in Crime Report No. 1/2006 whereby the trial court instead of granting police custody remand against the respondent No.1 Gaurav Rohila sent him to judicial custody. Hence this petition.

I have heard learned counsel for the parties.

The facts and circumstances giving rise to the instant criminal misc. petition are that the petitioner-first informant lodged a report being CR No. 01/2006 Police Station, Mahila Thana, Jodhpur against the respondent No.1 for the offences under Sections 498-A, 406 and 323 IPC. During investigation of

the said crime report, the police arrested respondent No.1 Gaurav and recovered certain articles which according to the first informant were entrusted to him as dowry articles. During investigation, it is alleged that the respondent No.1 furnished information under Section 27 of the Evidence Act for getting the recovery of certain ornaments and motor cycle. It appears that Dr. Indra Tak gave an undertaking to the trial court that since the accused is in custody and motor cycle is lying at his place of working and therefore, she undertook to produce the motor cycle before the police as also to get prepared the ornaments which the first informant alleged in the report and hand over the same to the police, though the case of the respondent was that no such ornaments were ever entrusted to him. Be that as it may. As per the undertaking the motor cycle and the ornaments have been produced by respondent through Dr. Smt. Indra Tak. Thus, the recovery stands effected as per the undertaking given by Dr. Smt. Indra Tak. Thereafter the police concluded the investigation and submitted a challan against the respondent and trial has been proceeded.

It has been contended by learned counsel for the petitioner that the trial court fell in error in declining to grant police custody remand against the respondent No.1 only on the undertaking given. However, it has not been disputed that the undertaking has been fulfilled by Dr. Indra Tak. Even otherwise,

the occurrence is of January 2006 and thereafter the police concluded the investigation and after through investigation filed challan against the respondent No.1 and the trial has been proceeding. In the circumstances therefore, in my view, no case for interference is made out with regard to non grant of police custody remand keeping in view the supervening change in the circumstances of the case.

The criminal misc. petition is dismissed accordingly.

(H.R.PANWAR),J.

rp